

# **Institutional Controls and HUD Properties**

**HUD/EPA Coordination Meeting  
May 17, 2018  
Arlington, VA**

# Discussion Objective

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- ◆ At the HUD training for EPA the significance of legal, administrative and engineering controls was raised
- ◆ This presentation reviews the definitions of controls and offers suggestions for coordination

# Terms

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- ◆ Institutional controls are non-engineered instruments such as administrative and legal controls that help minimize the potential for human exposure to contamination and/or protect the integrity of the remedy
- ◆ Engineering controls include physical barriers, such as landfill caps, fences and security guards

# When are ICs/ECs Used?

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- ◆ The need for ICs is a site specific decision which considers if:
  - » Waste is left in place and
  - » Whether the site would meet unlimited use and unrestricted exposure
- ◆ ECs compliment ICs
  - » ECs may include a landfill cap, security, or other physical barrier
  - » ICs may exist to protect ECs

# Types of ICs

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- ◆ Proprietary controls, typically land use controls such as negative easements and restrictive covenants,
- ◆ Governmental controls, typically include zoning, building codes, groundwater use restrictions, fishing bans and other,
- ◆ Enforcement controls and permit tools with IC components typically include permits and administrative orders, and
- ◆ Information devices typically include information or notification, which could be in deed notices, posted warnings, community notices, tracking systems, or fish consumption advisories.

# Superfund Requires ICs but others Implement ICs

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- ◆ When ICs are required, the Superfund program requires ICs in our decision documents,
- ◆ ICs for general Superfund sites are typically issued by states, local government or tribes,
- ◆ Responsible Parties must obtain the ICs for their properties, and
- ◆ ICs for federal facilities are the responsibility of the federal owner to obtain.
- ◆ Because EPA does not generally issue ICs, it is wise to work with other parties early to verify the feasibility of proposed ICs and coordinate getting the ICs in place.

# HUD and ICs

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- ◆ **We understand HUD wants to know about ICs early as HUD may want to require additional ICs on HUD properties where there are either loans or projects.**
- ◆ **We would like to think that coordination will have multiple benefits for both agencies and the public.**

# Obtaining Site Information

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- ◆ EPA has ways for HUD Staff to see where sites are and obtain information:
  - » Cleanups in My Community:  
<https://www.epa.gov/cleanups/cleanups-my-community>
  - » Superfund sites where you live:  
<https://www.epa.gov/superfund/search-superfund-sites-where-you-live>



# Obtaining Site Information

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- ◆ EPA tools to help identify sites also provide EPA contacts where specifics on site waste, cleanup plans, and ICs/ECs can be obtained,
- ◆ We might also explore ways to coordinate exchanging information between EPA and HUD regional offices efficiently.

# Questions/discussion

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